



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

KATHLEEN ANDERS :

Complainant :

v. :

ROBERT MUSGROVE AND THE
LACONIA SCHOOL BOARD :

Respondent :

CASE NO. T-0346

DECISION NO. 83-15

APPEARANCES

Representing Kathleen Anders

Robert M. Larsen, Esq.

Representing Robert W. Musgrove and
the Laconia School Board

Harry Gale

Also in Attendance

Frank Poole

Robert Musgrove

Kathleen Anders

Anne Richmond

BACKGROUND

Kathleen Anders alleged that the Superintendent of Schools (Musgrove) and the Laconia School Board unfairly discriminated against her for her support of the Laconia Education Association (LEA) in that she was not rehired as a special education aide after she had worn an LEA button to school two months prior, in direct violation of RSA 273-A:5 (c).

The School Board, represented by Gale Associates, denied any breach of RSA 273-A and further questioned the jurisdiction of the PELRB in this matter since Kathleen Anders is not a member of the bargaining unit and was not participating in any organizational campaign nor was she attempting to join the bargaining unit there.

A hearing was held at the Public Employee Labor Relations Board office in Concord on March 24, 1983.

FINDINGS OF FACT AND RULINGS OF LAW

By agreement the PELRB heard arguments on the question of its jurisdiction in this matter and decided that it (PELRB) would take jurisdiction under RSA 273-A:5 (c) with the interpretation that any action which is related to a labor dispute between public employees and the public employer falls within the jurisdiction of the PELRB's mandate under 273-A. The Board proceeded to hear the facts in this case. Kathleen Anders has been employed as a special education aide in the Laconia schools since

1977, changing location in 1980 through 1982. Mrs. Anders was also hired to perform "extra responsibility" tasks in 1979, 1980 and 1981. In July of 1982, Mrs. Anders realized she would not be rehired for the 1982-83 school year, in something of a round about way (for which the school superintendent later apologized). It seems that the issue of LEA materials inside the schools has been a controversy for some time and the wearing of buttons is the most recent manifestation. The school board, in March, 1982, directed that no "stickers" be used in school. In April, the LEA distributed buttons (buttons had been used in a previous campaign). Mrs. Anders wore a button for about one week in April; she was seen wearing the button by school Principal Harwood and he warned of the Musgrove "directive" that she could be fired for wearing the button. Mrs. Anders removed the button and never wore it again (apparently others had also worn buttons). Harwood shortly after informed Superintendent Musgrove that Mrs. Anders had been wearing a button. Mrs. Anders' name appeared on a non-retention list on June 17, 1982.

The Superintendent claimed that Mrs. Anders was not rehired because of the need of staff reductions due to budget cuts. Under questioning the Superintendent admitted that the procedures in the "Personnel Manual for Support Personnel" (Dec. 1980) were not followed by him (and were later changed) and that Mrs. Anders' seniority (she was number two among the twenty-two aides) was not taken into account. Mrs. Anders' personnel file contains no unfavorable evaluations for the five year period and only after her dismissal were letters critical of her placed in the file.

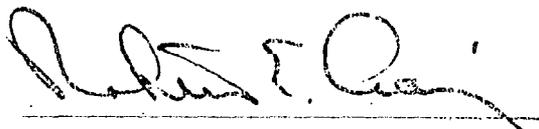
Superintendent Musgrove testified that in his meetings with the various supervisors Mrs. Anders was given a low ranking relative to the other aides, although there is no written record of these meetings. Musgrove also met with others (Principals) and solicited memos from them. Musgrove testified that any negative information about Anders (and perhaps others) was not being given to him, explaining his solicitation of it himself. Superintendent Musgrove also testified that Anders was terminated as a result of financial exigency, that at first all four special aides (and only these four) were planned to be cut, but that it ended up only Anders since she was last on the "Best to Worst" list and some moneys were subsequently restored in the process.

DECISION

The PELRB finds that the Laconia School Board, acting through its agent, Superintendent Musgrove, did dismiss Kathleen Anders without proven cause, violating their own personnel rules and apparently motivated by a desire to punish her for her showing of support for the LEA, a clear unfair labor practice.

The PELRB finds, therefore, that the Laconia School Board has violated RSA 273-A:5 (c) and orders:

- (1) that Mrs. Kathleen Anders be re-instated in her previous position and,
- (2) she be paid back wages forfeited by this unlawful action.



ROBERT E. CRAIG, Chairman

Signed this 6th day of May 1983

By unanimous vote. Chairman Craig presiding, members James Anderson and David Mayhew present and voting. Also present, Evelyn LeBrun, Executive Director.